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1947-8

University of Santa Clara
COLLEGE OF LAW
Announcements 1947-1948

University of Santa Clara

College of Law

ANNOUNCEMENTS
1947-1948

Member of the Jesuit Educational Association

Member of the
Northwest Association of Secondary and Higher Schools

Approved by the American Bar Association

Member of the
Association of American Law Schools

Accredited by the
Board of Bar Examiners of the State Bar of California

Published by the
UNIVERSITY OF SANTA CLARA
Santa Clara, California

NOVEMBER, 1947

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CALENDAR

1947

September

S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

Sept. 10, Registration College of Law; 11, Instruction begins in College of Law; 11-13, General Registration for Fall Semester; 13, Condition Examinations; 15, Instruction begins; 18, Mass of the Holy Ghost.

October

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Oct. 16-21, Mid-Term Examinations; 22-24, Students' Retreat; 25, Closing of Retreat, a holiday.

November

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Nov. 1, All Saints Day, a holiday; 4, Mass for deceased Faculty and Alumni; 22, Last day to submit subjects for Senior Thesis; 27-29, Thanksgiving Recess.

December

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Dec. 4, Dramatic Art Contest; 8, Feast of the Immaculate Conception, a holiday; 9-13, Mid-Term Examinations; 20-Jan. 3, Christmas Recess.

1948

January

				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Jan. 5, Classes resumed; 26-30, Final Examinations.

CALENDAR

1948

February

S	M	T	W	Th	F	S
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Jan. 31-Feb. 9, Inter-Semester Recess; 9, Registration College of Law; 10, Instruction begins in College of Law; 10-11, General Registration for Spring Semester; 12, Instruction begins; 14, Condition Examinations.

March

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Mar. 4, Owl Oratorical Contest; 18-24, Mid - Term Examinations; 25-29, Easter Recess.

April

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April 15, Senior Theses due; 29, President's Day, a holiday.

May

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30	31					

May 1, Redwood and McCann Prize Essays due; 3-7, Mid-Term Examinations; 6, Ascension Thursday, a holiday; 11, Ryland Debate.

June

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20	21	22	23	24	25	26
27	28	29	30			

June 7-11, Final Examinations; 19, Commencement.

September

			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

Sept. 9, Registration College of Law; 10, Instruction begins in College of Law.

The Corporate Title of the University is

PRESIDENT AND BOARD OF TRUSTEES OF SANTA CLARA COLLEGE

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CONSULTING ATTORNEY

VICTOR A. CHARGIN

THE COLLEGE OF LAW

OFFICERS OF ADMINISTRATION AND INSTRUCTION

EDWIN J. OWENS, Professor of Law and Dean of the College of Law
A. B., Holy Cross, 1919; LL. B., Harvard, 1922. Professor of Law, Boston College, 1928-33. Dean of the College of Law since 1934. Visiting Professor of Law, Hastings College of Law, summer 1942. Visiting Professor of Law, Stanford Law School, Fall quarter, 1945. At Santa Clara since 1934.

EDWIN F. ALBERTSWORTH, Professor of Law
A.B., George Washington University, 1915; Ph. D., George Washington University, 1918; S.J.D., Harvard, 1921. Dean of Law, University of Wyoming, 1921-22. Professor of Law, Western Reserve University, 1923. Professor of Law, Northwestern Univer- 1924-43. Visiting Professor of Law, University of San Francisco, 1938-39; summers of 1940-41-44. Professor of Law, University of California, summer 1943. Visiting Professor of Law, University of Santa Clara, 1938-39; and summers of 1940-41. At Santa Clara since 1947.

DAVID P. ARATA, Registrar
B. S., University of Santa Clara, 1938. Graduate work, Stanford University.

WAYNE KANEMOTO, Librarian of the Law Library and Secretary of the College of Law
LL. B., University of Santa Clara, 1942.

JOSEPH P. KELLY, Assistant Professor of Law
Ph. B., Holy Cross, 1933; J. D., New York University, 1936; LL. M., 1939. At Santa Clara since 1939.

RICHARD W. MORTON, Instructor in Law
A. B., Santa Clara, 1937; LL. B., 1939. At Santa Clara since 1940.

EDWARD J. NILAND, JR., Instructor in Law
LL. B., Boston College, 1947. At Santa Clara since 1947.

GEORGE J. STEPOVICH, Instructor in Law
Ph. B., Santa Clara, 1933; LL. B., 1935. At Santa Clara since 1937.

AUSTEN DEN WARBURTON, Instructor in Law
A. B., San Jose State College, 1938; LL. B., University of Santa Clara, 1941. At Santa Clara since 1945.

GENERAL INFORMATION

University of Santa Clara

LOCATION

The University of Santa Clara, conducted by the Jesuit Fathers, is situated at Santa Clara on the site of the old Mission, in the southern part of the San Francisco metropolitan district and immediately adjacent to San Jose. Frequent railroad and bus service provide easy access to the various Bay cities, and direct connection to all parts of California and the West.

The valley of Santa Clara is famous throughout the world for the beauty of its scenery. The climate is mild and equable both in summer and winter, and on that account singularly favorable for persistent study and research, as well as for the maximum of agreeable out-of-doors recreation which such work makes necessary.

HISTORY

Mission Santa Clara. On January 12, 1777, two Franciscan Padres, de la Pena and Murguia, planted the first Mission Cross and laid the foundation of Mission Santa Clara on the banks of the Guadalupe, about a mile and a half from the University grounds. Two years later a flood destroyed both church and monastery, and the Padres in consequence moved the Mission to the second site, two blocks from the present church.

Santa Clara College. Desiring to save the remnants of the Mission, and also to start a college to meet the growing need of the times, the Rt. Rev. Joseph Sadoc Alemany, O. P., Bishop of the Diocese of San Francisco, invited the Fathers of the Society of Jesus to Santa Clara. The invitation was accepted, and accordingly on March 19, 1851, Father John Nobili, S.J., laid the foundation of Santa Clara College.

He adapted the old adobe buildings, to the requirements of a college. On April 28, 1855, the institution was chartered a University and continued to be known as Santa Clara College until 1912. It is the oldest institution of higher learning in the West. In 1857 the degree of A. B. was conferred on Thomas I. Bergin, the first to receive the degree from any California college.

During the subsequent years the College grew in influence and attendance.

The University. In 1907 lectures were commenced with a view of preparing students to enter upon the professional courses in law, medicine and engineering. In 1911 the pre-medical course was established and the Law School begun. Realizing, therefore, that the College was practically doing the work of a university, the President, Father James P. Morrissey, S. J., and the Board of Trustees adopted the name of "University of Santa Clara," this decision going into effect on April 29, 1912.

COLLEGE OF LAW

The College of Law was organized in 1911 and originally was conducted solely as an evening school. In 1929 the evening school was abandoned and the Law College became a full-time school with classes held only in the forenoon and afternoon.

The classes are now held in Bergin Hall which is reserved exclusively to the College of Law. Bergin Hall is the result of a generous gift made by Thomas I. Bergin, who graduated from the university in 1857 and who later achieved prominence in the practice of law in San Francisco.

Bergin Hall was completed and first occupied in 1939 and is one of the most modern and complete law school buildings to be found anywhere throughout the country. It contains four splendidly equipped class rooms, a beautifully finished court room, an excellently appointed library containing approximately fifteen thousand volumes, five private faculty offices, a seminar room, club room, lounge and lockers.

The College of Law is on the approved list of law schools of the American Bar Association and is a member of the Association of American Law Schools.

EDUCATIONAL POLICY

As an integral part of a Jesuit University, the College of Law aims at developing side by side the moral and intellectual faculties of the student; at sending forth to the world men of sound, acute and rounded intellects and of upright character.

The method of class-room instruction corresponds to that pursued by recognized and approved law schools throughout the country; basically, it is the so-called "case method" of instruction.

It is the conviction of those who are charged with the administration of the College of Law that the most effective teaching frequently is not teaching at all in any formal sense; nor is the intellect developed or moral character increased by the mere imparting of information in formal school sessions. With these convictions in mind the College of Law has been definitely committed to the policy of being and remaining a small law school in which the greatest intimacy and contact may be maintained between teacher and student not only during formal sessions of class but constantly throughout the day. Each class room was built so that it would not have a capacity of more than thirty-five students, thus insuring ample opportunity for all students to participate fully in class discussions. The faculty offices have been located but a few steps from the library and all of the full-time members of the faculty are required to hold themselves available for consultation with students throughout the day.

MOOT COURT

There always has been considerable misapprehension as to the place of moot court work in a law school curriculum. The Moot Court at Santa Clara is neither expected nor intended to furnish the student with the skills and techniques of actual court practice. On the contrary, it is recognized that these skills are best developed after the law school period has ended and in the actual arena of the trial court. All of the Moot

Court work at Santa Clara, then, is carried on as an adjunct to the formal and informal discussions of legal problems and theories which characterizes the law school day. There is no attempt to teach the student the art of examination and cross-examination; of preparation of a case for trial, or similar techniques of practice. The cases argued in the Moot Court are presented as on appeal to a court of last resort and in such form as to admit of the fullest discussion of conflicting legal views and theories, rather than as a melodramatic presentation. Sessions of the court are held bi-weekly. For each session a calendar is prepared containing the announcement of the names of the cases to be argued and of the counsel assigned. Assignment of cases are made three weeks in advance and the respective counsel are provided with a copy of the record upon the basis of which the appeal will be argued. Counsel are then required to prepare briefs which must be filed one week in advance of hearing. Copies of the records and briefs are made available to all the members of the student body. The bench in each instance consists of members of the faculty augmented by senior class members of the Woolsack. In every case argued a written opinion is prepared and handed down by the court at the session following the one in which the case was argued. Copies of the opinion are also made available to each student in the school. The bi-weekly sessions of the Moot Court culminate in the Coolidge Competition which is held shortly before the conclusion of the school year.

THE COOLIDGE COMPETITION

This competition, established in 1934 in honor of Dean Emeritus Clarence C. Coolidge, consists in the public trial of a suppositious case before a bench of three judges chosen from the appellate courts of the State. The competing counsel, two on each side, are chosen from the students who compete in the bi-weekly Moot Court sessions of the College of Law. Suitable prizes are awarded to the successful counsel. The competition serves as a climax to the Moot Court work of the student throughout the school year. Its purposes are to stimulate among the students the desire for legal research and to develop their power for legal analysis.

TUTORSHIP

In 1937 the College of Law inaugurated a method of tutorship by which the members of the freshmen class are divided into small groups, and to each group a member of the Woolsack is assigned as tutor. Under this arrangement each freshman has some upper classman to whom he may feel free to turn at any time for assistance and advice. In addition, each tutor is required to meet his group as a whole once each week for the purpose of reviewing their progress and offering suggestions looking towards the improvement of the work of the first year men.

THE WOOLSACK

The Woolsack is the honorary scholastic society of the College of Law. A student who has achieved an average grade of better than 1.5 in his law school work for any one year is admitted as a provisional member.

Only those students who have achieved such an average for two successive years are admitted to full membership. Its full membership is divided into two classes: active and graduate.

The membership of the Woolsack is charged with the conduct of the Moot Court, The Coolidge Competition, and all extra-curricular activities of the College of Law.

ACADEMIC YEAR

The academic year consists of two semesters of eighteen weeks each. The course of study requires six semesters over a period of three years. In addition to the two regular semesters a summer course of twelve weeks may be offered, if sufficient students indicate a desire for such a course. Summer courses taken may be credited towards the professional degree, but the time so spent will not count as a part of the period of residence required for the degree.

EXPENSES

Resident Students

Because of limited housing facilities, it is the general policy to have law students lodge and board off the campus. Inquiry concerning housing should be addressed to the Registrar.

Tuition, per semester	$160.00
Board and Lodging, per semester	250.00
Deposit for Laundry, per semester	20.00
Room Deposit	10.00
Professional Medical Fee, per semester	10.00
Deposit for Books, per semester	35.00

Non-Resident Students

Tuition, per semester	$160.00

For All Students

Matriculation Fee, paid at first entrance only	$ 10.00
Student Activity Fee, per semester	10.00
Law Library Fee, per semester	10.00

Special Charges

For registration on the first day after the opening of the semester	$ 2.50
For each day thereafter	1.00
For each examination taken out of time or to remove a condition	2.00
For each copy of the student's record other than the first	1.00
Graduation Diplomas and Certificates	10.00

The rental for private rooms covers charges for light, heat and care. No additional electrical appliances may be installed by the student without the permission of the Vice-President and the payment of extra charges.

Infirmary Charges

Charges for the ordinary attendance of the University Physician, Nurse and attendants are provided by the Professional Medical Fee. Medicines are charged at cost prices. For a room in the Infirmary, a dollar a day is charged.

Payments

All charges must be paid half-yearly in advance. Remittances should be made in the name of the University of Santa Clara. Deferred payments of bills or reductions can only be sanctioned by the President. For such

a concession a fee of $1.00 per month will be charged for each $200.00 or fraction thereof remaining unpaid. If payment is deferred without a satisfactory understanding with the President, the latter is directed by the Trustees to remove the student in question from the institution. Semester bills and unpaid balances are subject to sight draft ten days after the bill is rendered.

It is understood that no student is entitled to take any examination or receive any diploma or degree or be furnished with a record of his credits while any bill due the University remains unpaid.

When a student withdraws from the University, a Withdrawal Form must be secured from the Registrar and returned to the office of the Registrar when properly filled out.

Refunds

There will be no refund made on Fees or Special Charges.

Refund on Tuition and Lodging will be prorated quarterly. Refund on Board will be prorated weekly from the beginning of the week following the date of withdrawal. No refund will be made for withdrawal after the first day of the last month of each semester.

PRE-LEGAL PREPARATION

"Law," observed one of its ablest modern exponents, "is not so much a body of rules as it is a process of reasoning". While the practice of law has become increasingly complex within our own generation and the scope of its informational content greatly broadened, now, as in the past, the emphasis in legal education must continue to be upon the development of ability in synthesis and analysis; of logic in thought and of conciseness and clarity in expression; upon the grasp of broad underlying legal principles and in the understanding of traditional legal techniques. The accomplishment of this task requires that a very substantial ground work be laid before the applicant even enters law school. We expect, therefore, that the student coming to us in the law school shall have had some previous contact with and understanding of the rudiments of political science, of economics and of history; with some ability in formulating his ideas in logical sequence and corresponding ability to express those ideas in concise and clear language. Especially desirable, therefore, are courses in philosophy and logic, mathematics, language, and to some degree in the physical sciences. In brief, the more desirable form of pre-legal education is one which emphasizes skill in reasoning and in synthesis and analysis rather than the mere accumulation of "knowledge" that is of "informational data". Such skills probably can be imparted most effectively by a well co-ordinated liberal education. At some stage in a lawyer's education although not necessarily in the pre-legal phase, he should obtain a working knowledge of accountancy. Courses in the fine arts, however desirable they may be otherwise, are not recommended for pre-legal students and generally no credit is given for any such courses taken.

ENTRANCE REQUIREMENTS

The College of Law is open to the following classes of students:

1. Those who have the degree of Bachelor of Arts, Bachelor of Science, or their equivalent from this school or a similar degree in satisfactory courses from some other college or university of approved standing and who have maintained an average of 1.5 or better in the upper division of their college work.

2. Those who have successfully completed the first three years of college work either at this university or at some college or university offering satisfactory courses leading to academic degrees and who have maintained an average of 1.5 or better in the work of the junior year.

3. Subject to the vote of the faculty and the recommendation of the Dean, those who have successfully completed, at least, the first three years of college work either at this university or at some other college or university offering satisfactory courses leading to academic degrees but who have not maintained an average of 1.5 or better in the upper division of their college work.

4. Students who have followed courses in the College of Arts and Science at this university for three years and who have maintained an average of 2 in the work of their junior year may satisfy the requirements of the Bachelor's degree in their senior year by following the first year law course and the course in Ethics. Such students will then qualify for the Bachelor of Laws degree after two more years of study in the College of Law.

In computing averages, C = 1, B = 2, and A = 3.

The three year pre-legal requirement as noted above has been reduced to two years for veterans only.

Students of the above classes are admitted as REGULAR STUDENTS.

5. In rare instances those who lack the necessary college credits as specified above but whose experience in business or whose private study has made up for their lack of college training and whose maturity and seriousness, fit them, in the discretion of the Faculty for the study of law. These are SPECIAL STUDENTS. Under no circumstances will the number to be admitted each year exceed the limits prescribed by the ruling of the Association of American Law Schools.

Advanced Standing

Any person who has been in regular attendance for at least one academic year at another law school, having similar admission requirements, and approved either by the American Bar Association or the Association of American Law Schools, may in the discretion of the Faculty of the College of Law, and on such terms as it may prescribe, receive credit for the work done at such other law school not exceeding in any case two years. The last year must be spent in residence in the College of Law.

First year students who fail to attain satisfactory grades at the end of the first year will be required to withdraw from the College of Law. No student will be permitted to register for the work of the third year unless he has attained satisfactory grades in the work of the second year.

GRADUATION REQUIREMENTS

In order to graduate or receive the certificate, the student must—

1. Have received credit for at least 76 units (a unit is the equivalent of one hour a week for one semester) of Law exclusive of Survey of Accounting. No student is allowed a unit in any course at which he has not been present for 90 percent of the class hours and in which his average is not at least of D grade. The credit may be earned in part on the basis of work done in other law schools on the part of students admitted to advanced standing as specified above.

2. Have obtained in the work of his third academic year a general grade point average of C with a weighted average of C for the work of the entire three years.

3. Have fulfilled the requirements of residence for three academic years in either this College of Law or some other approved law school, the last academic year of which in any event must have been spent in this College of Law.

The degree of BACHELOR OF LAWS will be conferred on those students:

1. Who possess academic degrees before beginning the study of law and have satisfied the requirements set down in 1, 2 and 3 above.

2. Who have completed three years of college work leading to an academic degree and have satisfied the requirements set down in 1, 2 and 3 above.

3. Veterans who have completed at least two years of college work leading to an academic degree and have satisfied the requirements set down in 1, 2, and 3 above.

The CERTIFICATE OF LAW will be conferred on special students who throughout their course have satisfied the requirements set down in 1, 2 and 3 above.

No student in the College of Law is allowed to take the State Examination for admission to the Bar before he has completed successfully the course of study prescribed by the University for the LL. B. degree or the Certificate in Law, and until such successful completion of the course has been certified to by the Dean of the College of Law. Immediate exclusion from the College of Law will follow any violation of this regulation.

Attendance

Regular attendance at all classes is required. No student while in attendance at this school shall be registered in any other school or college or in any other department of the University of Santa Clara without the written consent of the Dean except those students who qualify under paragraph four of this section titled Entrance Requirements.

PROFESSIONAL COURSES

The unit of credit is the semester hour which represents one lecture-hour per week for a semester. All courses are subject to withdrawal without notice.

FIRST YEAR

105. **Contracts 1.** Offer and acceptance, consideration, assignments, joint contracts, joint and several contracts, conditions, third party beneficiary, breach. Six units.

106. **Criminal Law and Procedure.** Jurisdiction, procedure, elements of criminal liability, various crimes, criminal intent, malice. Three units.

109. **Property 1.** Ownership, legal title, possession, fixtures, emblements, bailments, carriers. Six units.

111. **Agency.** Nature of agency relations, distinguished from other relations, rights of third person against principal, against agent, rights and duties of principal and agent inter se, liability of principal for acts of agents in contract, in tort, liability of principal for acts of independent contractors. Three units.

112. **Torts.** Negligence, intentional harms, libel and slander, causation, contributary negligence, last clear chance doctrine.
Three hours. Two semesters. Six units.

219. **Sales.** Uniform Sales Act. Three units.

SECOND AND THIRD YEARS

203. **California Practice.** Jurisdiction of California courts, Venue; Summons; Statute of Limitations; Trial Procedure; Dismissal or Nonsuit; Directed Verdict; The Verdict; Judgments; Motion for New Trial; Writs. Three units.

204. **Code Procedure.** Nature of the Civil Action under the Code; Parties to the Action; The Complaint; Demurrer of the Complaint; The Answer; The Cross-Complaint; The Reply; Demurrer to Pleadings subsequent to the Complaint. Two units.

206. **Conflicts of Law.** Status, nature of domicile, real property rights, rights in personality. Four units.

207. **Constitutional Law.** Equal protection of law, due process of law, impairment of contract, separation of powers, theories of constitutional interpretation, full faith and credit clause, interstate commerce, states' rights. Five units.

210. **Equity.** Origin and nature of equity jurisdiction, jurisdiction in personam and in rem, extra-territorial effects of equity decrees, specific reparation for torts, specific performance of contracts, injunctive relief, nature of so-called equitable defenses, bills of interpleader, bills to quiet title, mutuality of performance and mutuality of remedy distinguished, equitable servitudes. Six units.

211. **Evidence.** Questions of law and fact, burden of proof, witnesses, hearsay rule, documentary original rule, res gestae, admissions, confessions, opinion rule so-called, rationalization of rules of evidence. Five units.

215. **Negotiable Instruments.** Promissory notes, bills of exchange, Uniform Negotiable Instrument Law. Three units.

217. **Corporations and Partnerships.** Corporate Entity; De Facto Corporations; Rights of Stockholders; relation of Director to Corporation; Limitations upon power of Directors; Corporate Stock; Bonds; By-Laws; Nature of Partnership relation; Rights and Obligations as to Third Parties; Rights and Obligations inter se; Creation, Management and Dissolution. Six units.

218. **Property II.** Real property, covenants running with the land, title, adverse possession, future interests. Five units.

220. **Trusts.** The Nature, Creation and Elements of a Trust; The transfer of a Beneficiary's Interest, consideration of Spendthrift Trusts; The Administration of Trusts; The Termination and Modification of Trusts; Charitable Trusts; Resulting and Constructive Trusts. Three units.

222. **Wills and Administration.** Probate, distribution of estate, requirements for valid will, execution, revocation, and alteration of will, distinction between various types of legacies. Three units.

224. **Suretyship and Mortgages.** Surety relation, mortgagor and mortgagee. Two units.

225. **Domestic Relations and Community Property.** Marriage Annulment, divorce, marital property. Two units.

226. **Contracts II.** Excuses for non-performance, impossibility, mistake, illegality, damages for breach of contract, remedies for breach, recission, specific performance, restitution, quasi-contracts. Two units.

227. **Taxation.** Power to tax, taxation of persons and property, inheritance tax, State and Federal tax, remedies. Three units.

Econ. **30A-B. Survey of Accounting.** This course is designed to meet the needs of students whose major interest is the practice of law. To this end the phases of accounting treated are those which involve a consideration of partnerships, corporations, ventures, syndicates, estates, trusts, and the problems involving asset valuation in public utility rate making cases. Four units.

All students are required to attend without credit all sessions of the Moot Court and all special lectures given during the scholastic year.

All of the courses in the College of Law are required courses.

JESUIT EDUCATIONAL ASSOCIATION

COLLEGES AND UNIVERSITIES

Alabama	Spring Hill College, Spring Hill
California	Loyola University of Los Angeles Santa Clara University, Santa Clara University of San Francisco
Colorado	Regis College, Denver
Connecticut	Fairfield University, Fairfield
District of Columbia	Georgetown University, Washington
Illinois	Loyola University, Chicago
Louisiana	Loyola University, New Orleans
Maryland	Loyola College, Baltimore
Massachusetts	Boston College, Newton Holy Cross College, Worcester
Michigan	University of Detroit
Missouri	Rockhurst College, Kansas City St. Louis University, St. Louis
Nebraska	The Creighton University, Omaha
New Jersey	St. Peter's College, Jersey City
New York	Canisius College, Buffalo Fordham University, New York City Le Moyne College, Syracuse
Ohio	John Carroll University, Cleveland Xavier University, Cincinnati
Pennsylvania	St. Joseph's College, Philadelphia University of Scranton, Scranton
Washington	Gonzaga University, Spokane Seattle College, Seattle
Wisconsin	Marquette University, Milwaukee